

SCHLAM STONE & DOLAN LLP

26 Broadway, New York, NY 10004
Main: 212 344-5400 Fax: 212 344-7677
schlamstone.com

MEMO ENDORSED

February 3, 2015

BY EMAIL: Failla_NYSDChambers@nysd.uscourts.gov

The Honorable Katherine Polk Failla
United States District Court
for the Southern District of New York
500 Pearl Street, Chambers 735
New York, NY 10007-1312

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: February 3, 2015

Re: *Servipronto De El Salvador, S.A. v. McDonald's Corp.*, No. 11-cv-04519

Dear Judge Polk Failla:

We are counsel for Plaintiff Servipronto De El Salvador, S.A., and submit this letter to request reargument or, in the alternative, to seek the Court's guidance, with respect to this Court's Order dated February 2, 2014.

The Court's February 2 Order denied our request for a stay of the parties' obligation to submit a joint letter advising of the status of the litigation in El Salvador pending submission and resolution of our motion to withdraw, and directed that the joint letter be submitted by February 9, 2015.

Today, we received an email from Servipronto, stating, among other things: The joint letter ordered by Judge Polk Failla . . . should contain all and every argument we have requested to be included in such letter. . . . Not telling the truth by omitting our arguments in the joint letter, could be interpreted as perjury." A copy of this email, together with our response to it, is annexed as Exhibit 1 to this letter.

This email illustrates the difficulty we face in drafting a joint letter that is acceptable to Servipronto, can be joined in by opposing counsel, and meets the expectations of the Court. To further illustrate the scope of what Servipronto is insisting upon we submit, at Exhibit 2 to this letter, our email exchange with Servipronto and opposing counsel around the joint letter draft we had proposed. (We have redacted a portion of one line from the last email we sent to Servipronto where marked, and do not include the attached draft of the joint letter.)

While we believe Servipronto has a strong argument that the continuing delays in El Salvador support an argument for relief, the essence of our advice to them was that insufficient time has passed, in the absence of developments in El Salvador, to seek to disturb the Court's stay order of November 3, 2014 by repeating at length, as Servipronto urged, arguments we

Hon. Katherine Polk Failla
United States District Judge
February 3, 2015
Page 2

made to the Court last autumn to the effect that should now decide the summary judgment motion that had been brought by prior counsel.

The email exchange at Exhibit 2 illustrates that Servipronto urges us to press such arguments upon the Court when, in our professional judgment, it is not advisable to do so, given the absence of developments in the courts of El Salvador. Moreover, Servipronto is attempting to intimidate us into making such arguments by raising threats of "perjury" if we do not do so.

As these facts put before the Court both this firm's institutional knowledge concerning recent developments in the courts of El Salvador (there have been none), and additional facts concerning the difficulties of proceeding with a joint letter, we respectfully request that the Court reconsider its February 2 Order, and stay the joint letter obligation pending resolution of our motion to withdraw, on which we anticipate putting papers before the Court not later than Monday, February 9, 2015.

Respectfully submitted,



Thomas A. Kissane

Motion for reconsideration GRANTED. Upon reconsideration, in light of the circumstances to which this letter has drawn the Court's attention, the requirement contained in this Court's November 3, 2014 Order (Dkt. #55) that the parties submit a joint status letter every 90 days is hereby STAYED pending further order of the Court.

Dated: February 3, 2015
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE